

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

OLLEN G. COLBERT, Jr.

3475 Vine St.
Cincinnati, Ohio 45220

Plaintiff,

vs.

CINCINNATI GAS AND ELECTRIC CO.

139 E. Fourth St.
Cincinnati, Ohio 45202

and

**INTERNATIONAL BROTHERHOOD OF
ELECTRICAL WORKERS, LOCAL 1347**

4100 Colerain Avenue
Cincinnati, Ohio 45223-2590

Defendants.

) Case No.: C-1-00-909

) Judge Susan Dlott

) Magistrate Judge Timothy J. Hogan

) **PLAINTIFF'S SECOND UNOPPOSED**
) **MOTION FOR EXTENSION OF TIME TO**
) **RESPOND TO THE MOTIONS FOR**
) **SUMMARY JUDGMENT BY**
) **CINERGY/THE CINCINNATI GAS AND**
) **ELECTRIC COMPANY AND THE**
) **INTERNATIONAL BROTHERHOOD OF**
) **ELECTRICAL WORKERS, LOCAL 1347**

Comes now Plaintiff, Ollen G. Colbert, Jr., by and through counsel, to respectfully move the Court to grant Plaintiff's second request for an extension of time to respond to the Motion for Summary Judgment filed on January 13, 2005, by Cinergy/ The Cincinnati Gas and Electric and the Motion of Summary Judgment filed on January 14, 2005 by International Brotherhood of Electrical Workers, Local 1347. As more specifically shown in the Attorney's Affidavit, this case is complex and justice to the Plaintiff requires Counsel to continue to research a just and clear argument to show that genuine issues of material facts are present herein for trial. Counsel for the Defendants, namely Ariane S. Johnson, for Cinergy/The Cincinnati Gas and Electric Co.

and Jerry Spicer, for International Brotherhood of Electrical Workers, Local 1347, have both graciously stated that they will not oppose this second extension of time.

WHEREFORE, Plaintiff requests an extension, from February 21, 2005 to March 8, 2005.

Respectfully submitted,

s/Rose Ann Fleming

Rose Ann Fleming (0041337)

Rose Ann Fleming, P.C.

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Attorney for Plaintiff

AFFIDAVIT OF ATTORNEY IN SUPPORT OF MOTION TO EXTEND TIME

STATE OF OHIO)
)SS:
COUNTY OF HAMILTON)

I, Rose Ann Fleming, the undersigned, having been duly warned and cautioned, do hereby depose and state:

1. I am an attorney in good standing
2. I am the Counsel for Plaintiff in the above captioned matter.
3. I am a sole practitioner and have one assistant in my office.
4. Further, I am employed full-time at Xavier University, Cincinnati, Ohio, and therefore must devote only evenings and weekends to research for legal clients.
5. Plaintiff is currently looking for work and therefore is unable to afford additional full-time outside counsel to help with research on this matter.

6. I need additional time to respond to the Motion for Summary Judgment filed on January 13, 2005 by Cinergy/The Cincinnati Gas and Electric Company and the Motion for Summary Judgment filed on January 14, 2005 by the International Brotherhood of Electrical Workers, Local 1347.

7. As explained in my original Affidavit in support of my first request for extension of time, this case is a "hybrid" case, arising out of issues of employment law as well as out of issues employment discrimination based on race, and hostile environment, to mention only two.

8. Because of the complexity and multiplicity of the issues raised by Defendants and cited in my first affidavit in support of an extension of time, Plaintiff's Counsel requires further time to complete research she has begun.

9. Further, the Defendants have introduced the former case, *Colbert v. Cincinnati Gas and Electric Co., et al.*, (Case No. 1:97-CV-00685), filed July 23, 1997, as a *res judicata* defense. Plaintiff's present Counsel is not familiar with this case, it is only partially on the internet, Plaintiff does not have his file on it, and thus extended time is required to become familiar with it.

10. In the interest of justice for the Plaintiff, I am asking the Court to extend the deadline for submission of Plaintiff's responses in this matter from February 21, 2005, to March 8, 2005,

11. Both Counsel for Defendants have agreed not to oppose Plaintiff's Second Motion for Extension of Time to Respond to Defendant's Motions for Summary Judgment.

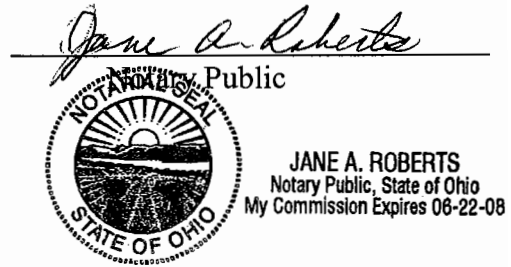
12. I do not ask for this second extension for frivolous reasons or to delay trial in this matter.

AFFIANT FURTHER SAYETH NAUGHT.

/s/Rose Ann Fleming
Rose Ann Fleming, Affiant

Sworn to and subscribed in my presence, this 21st day of February, 2005.

My commission expires: 6/22/08



CERTIFICATE OF SERVICE

HEREBY CERTIFY that the Plaintiff's Motion to Extend Time was electronically filed using the Case Management/Electronic Case Filing (CM/ECF) system with the Office of the Clerk of Courts, United States Federal District Court for the Southern District of Ohio, Western Division, Potter Stewart U.S. Courthouse, 100 E. Fifth Street, Cincinnati, Ohio 45202 on the 21st day of February, 2005. Such filing will send notification of such filing to the following Counsel for Defendants:

Ariane S. Johnson, Esq.
Cinergy
Cincinnati Gas and Electric Company
1000 East Main Street
Plainville, IN. 46168

Jerry L. Spicer
International Brotherhood of Electrical Workers. Local 1347
Snyder Rakay Spicer
11 W. Monument Street, Suite 307
Dayton, OH 45402

Respectfully submitted,

s/Rose Ann Fleming
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